SW

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
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| **UNITED STATES OF AMERICA,** | ) | Magistrate Docket No. '08 MJ 0306 |
| Plaintiff, | ) | |
| | ) | COMPLAINT FOR VIOLATION OF: |
| v. | ) | |
| | ) | Title 8, U.S.C., Section 1326 |
| **Jose Luis PONCE-Zasueta,** | ) | Deported Alien Found in the |
| | ) | United States |
| | ) | |
| Defendant | ) | |

The undersigned complainant, being duly sworn, states:

On or about **January 31, 2008** within the Southern District of California, defendant, **Jose Luis PONCE-Zasueta,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 4th DAY OF **FEBRUARY, 2008**

Ruben B. Brooks
UNITED STATES MAGISTRATE JUDGE

SW

**CONTINUATION OF COMPLAINT:**
**Jose Luis PONCE-Zasueta**

## PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On January 31, 2008, Border Patrol Agents J. Viau and A. Ortega were assigned to line watch duties in the Imperial Beach area of operations. At approximately 7:45 p.m., the infrared scope operator informed them, via radio that he had observed six individuals running north from the United States/Mexico Border towards an area commonly referred to as the "High Speed Trail". This area is approximately four miles west of the San Ysidro, California, Port-of-Entry, and about one half mile north of the United States/Mexico International Border Fence. This area is frequently used by illegal aliens to further their illegal entry into the United States.

The agents responded to the area and positioned themselves at the north end of the "High Speed Trail" and waited for the subjects to approach their position. After a brief wait, Agent Viau observed three individuals walking north towards their stationary position. The first subject, later identified as the defendant, **Jose Luis PONCE-Zasueta,** was in front and spread significantly apart from the other individuals in the group. When the individuals were approximately 15 feet away, Agent Viau approached them and identified himself as a Border Patrol Agent. The defendant immediately ran eastbound away from Agent Viau's position. Agent Viau immediately gave chase and after approximately one hundred yards, was able to catch up to the defendant and detain him. Agent Viau once again identified himself as a Border Patrol Agent, and conducted an immigration inspection. The defendant freely admitted to being a citizen and national of Mexico illegally present in the United States. At approximately 8:00 p.m., Agent Viau arrested the defendant. Agent Ortega subsequently arrested the two other subjects who were immediately behind the defendant and Agent A. Furet, who responded after hearing the radio transmissions, arrested the two additional subjects who were behind the individuals Agent Ortega had arrested. All five subjects were transported to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **March 18, 2006** through **San Ysidro, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

**CONTINUATION OF COMPLAINT:**
**Jose Luis PONCE-Zasueta**

The defendant was advised of his rights as per the Miranda Warning. The defendant understood his rights and agreed to be interviewed without representation. The defendant admitted that he is from Mexico and that he was on his way to Modesto, California to find work to help pay for his daughter's education.

**Executed on February 2, 2008 at 10:00 a.m.**

Carlos R. Chavez
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 2 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **January 31, 2008,** in violation of Title 8, United States Code, Section 1326.

Ruben B. Brooks
United States Magistrate Judge

2/2/2008 at 12:10 p.m.
Date/Time